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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3187

13 DANIEL DAI DO
6344 Orange Avenue
Long Beach, CA 90805

A C C U S A T I O N

14 Pharmacy Technician License No. TCH55182

15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about February 17, 2004, the Board of Pharmacy (Board) issued
22 Pharmacy Technician License No. TCH55182 to Daniel Dai Do (Respondent). The Pharmacy
23 Technician was in full force and effect at all times relevant to the charges brought herein and will
24 expire on October 31, 2009, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code (Code) unless
28 otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), of the Code provides in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or revoke a license by the Board.

6. Section 4301 of the Code states, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

....

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the

1 meaning of this provision. The board may take action when the time for appeal has elapsed, or
2 the judgment of conviction has been affirmed on appeal or when an order granting probation is
3 made suspending the imposition of sentence, irrespective of a subsequent order under Section
4 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
5 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
6 or indictment. . . .”

7 **REGULATORY PROVISIONS**

8 7. California Code of Regulations, title 16, section 1770, states:

9 "For the purpose of denial, suspension, or revocation of a personal or facility
10 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
11 Code, a crime or act shall be considered substantially related to the qualifications, functions or
12 duties of a licensee or registrant if to a substantial degree it evidences present or potential
13 unfitness of a licensee or registrant to perform the functions authorized by his license or
14 registration in a manner consistent with the public health, safety, or welfare."

15 **COST RECOVERY**

16 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
17 request the administrative law judge to direct a licensee found to have committed a violation or
18 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
19 and enforcement of the case.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Conviction of a Substantially Related Crime)**

22 9. Respondent is subject to disciplinary action under section 4301,
23 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that
24 Respondent was convicted of a crime substantially related to the qualifications, functions or
25 duties of a licensed pharmacy technician, as follows:

26 a. On or about September 20, 2006, Respondent was convicted by the Court
27 on a plea of guilty for violating one count of Penal Code section 459-460(b) (second degree
28 burglary), a misdemeanor, and one count of violating Penal Code section 476(a) (passing

1 fraudulent checks), a misdemeanor, in the criminal proceeding entitled *The People of California*
2 *v. Daniel Dai Do* (Super. Ct. Orange County, 2006, No. 06CM04966). Respondent was placed
3 on 3 years probation. The circumstances surrounding the conviction are that on or about
4 June 1, 2006, Respondent entered a bank and attempted to cash a fraudulent payroll check that
5 Respondent knew was fraudulent. The Santa Ana Police Department was contacted after the
6 Branch Manager compared the fraudulent payroll check with checks from the same company
7 already on file and observed that the signature on the check was obviously different. Respondent
8 admitted to the fraud and was placed under arrest. Upon Respondent's arrest, searches of his
9 person and vehicles incident to the arrest were conducted, during which time two additional
10 fraudulent payroll checks were seized.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct - Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

13 10. Respondent is subject to disciplinary action under Code section 4301,
14 subdivision (f), on the grounds of unprofessional conduct in that on or about June 1, 2006,
15 Respondent committed an act involving moral turpitude, dishonesty, fraud, deceit or corruption.
16 Complainant refers to, and by the reference incorporates, the allegations set forth above in
17 paragraph 9, subparagraph (a), as though set forth fully.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein
20 alleged, and that following the hearing, the Board issue a decision:

21 A. Revoking or suspending Pharmacy Technician Number TCH55182, issued
22 to Respondent;

23 B. Ordering Respondent to pay the Board the reasonable costs of the
24 investigation and enforcement of this case, pursuant to Business and Professions Code section
25 125.3, and

26 ///

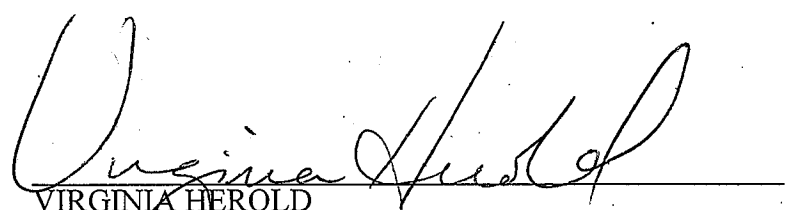
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C. Taking such other and further action as deemed necessary and proper.

DATED: 11/07/08



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant